

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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CLAIRE GAGNE,  
Plaintiff,

v.

J.C. PENNEY COMPANY, INC.  
Defendant.

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) DOCKET NO: 04-11517 WGY  
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**JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1**

Pursuant to Local Rule 16.1(D), the parties submit the following joint statement:

**A. OVERVIEW**

This case arises out of an alleged trip and fall accident at a J.C. Penney retail store on December 29, 2002 at the Northshore Mall in Peabody, MA. Plaintiff claims that she tripped and fell over an overstocked and unattended stocking rack that the defendant had allowed to remain in the middle of an aisle in the women's department of its store. Plaintiff has claimed injuries to her neck, back, shoulders, arm, right knee and leg as a result of the accident. Defendant denies any liability.

**B. AGENDA FOR RULE 16.1 CONFERENCE**

The parties suggest that the primary agenda for the initial scheduling conference will be to address the parties' proposed pre-trial schedule set forth below.

**C. SETTLEMENT**

Plaintiff has submitted a settlement proposal. Defendant will be prepared to respond to the plaintiff's settlement proposal at or before the Scheduling Conference.

**D. TRIAL BEFORE MAGISTRATE**

At this point, there is no agreement by both parties to try this matter by Magistrate Judge.

**E. RULE 26(a)(1) DISCLOSURES**

The parties agree to serve their initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) and Local Rule 26.2(A) on or before November 1, 2004.

**F. PROPOSED PRE-TRIAL SCHEDULE AND DISCOVERY PLAN**

The parties propose that the following schedule govern the pre-trial conduct of this action:

A. PHASE 1: For developing information required for a realistic assessment of the case:

1. All fact discovery will be completed by April 30, 2005.
2. Pursuant to Local Rule 26.1(c), the parties will be limited to ten (10) depositions for each side, not including expert depositions or third-party record custodian depositions.
3. The parties agree to comply with the discovery event limitations set forth in Local Rule 26.1(C).

B. PHASE 2: For developing information required to prepare for trial, if necessary:

1. The plaintiff will provide her expert witness disclosure to the defendant in accordance with Rule 26(a)(2) no later than April 30, 2005.
2. The defendant will provide its expert witness disclosure to the plaintiff in accordance with Rule 26(a)(2) no later than May 31, 2005.

**G. PROPOSED MOTION FILING SCHEDULE**

A. The parties will file and serve motions for amendments to pleadings by January 31, 2005.

B. All non-dispositive and non-expert discovery motions will be filed by May 31, 2005.

C. The parties will file and serve Rule 56 motions by June 30, 2005;

D. The parties will file and serve Oppositions to Rule 56 motions by July 21, 2005;

E. All expert discovery motions will be filed by July 31, 2005.

**H. CERTIFICATION**

The parties' certifications, as required by Local Rule 16.1(D)(3), have been filed and/or will be separately filed on or before the date of the Scheduling Conference.

The Defendant,  
J.C. Penney Company, Inc.,  
By its attorneys,

*/s/ Richard R. Eurich*

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The Plaintiff,  
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